

false and misleading, since the article was not pure butter and the packages did not contain 1 pound net, but considerably less than that amount, and for the further reason that said article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On or about June 19, 1922, Morris & Co., Inc., having a place of business at Savannah, Ga., having appeared, filed its claim, and admitted the allegations contained in the libel, judgment of condemnation was entered, and it was ordered by the court that the product might be released to said claimant for reworking, repacking, and relabeling, under the supervision of this department, upon the execution of bond in the sum of \$310.50, in conformity with section 10 of the act.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

**10710 (supplement to N. J. 6151). Adulteration and misbranding of compound essence grape. U. S. v. Joseph L. Schider (Jos. L. Schider & Co.). Plea of guilty. Fine, \$50. (F. & D. No. 7805. I. S. No. 12349-k.)**

On April 15, 1918, the Supreme Court of the United States reversed the judgment of the trial court, which sustained defendant's demurrer to the indictment in a case involving the interstate shipment of an article labeled in part, "Compound Ess Grape, Jos. L. Schider & Co., 93-95 Maiden Lane, New York," which was charged to have been adulterated and misbranded, and remanded the case for further proceedings, in accordance with the opinion of the Supreme Court.

On November 14, 1919, the matter having come on for final disposition in the trial court, the defendant entered a plea of guilty to the indictment, and the court imposed a fine of \$50.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

**10711. Misbranding of McMullin's tonic. U. S. v. 2 Bottles and 2 Dozen Bottles of McMullin's Tonic. Default decrees of condemnation, forfeiture, and destruction. (F. & D. Nos. 14806, 14807. I. S. No. 3961-t. S. Nos. C-2975, C-2977.)**

On April 8 and 29, 1921, the United States attorney for the District of Kansas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district libels for the seizure and condemnation of 2 bottles and 2 dozen bottles, more or less, of McMullin's tonic, at Leavenworth and Wichita, Kans., alleging that the article had been shipped on or about September 18 and October 16, 1920, by Tilden McMullin, Sedalia, Mo., and transported from the State of Missouri into the State of Kansas, and charging misbranding in violation of the Food and Drugs Act, as amended.

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that it consisted essentially of glycerin, alcohol, and water, with traces of iodid and phenol.

Misbranding of the article was alleged in substance in the libels for the reason that the following statement, regarding the therapeutic or curative effect thereof, appearing on the labels of the bottles, to wit, "\* \* \* Tonic \* \* \* Affords great relief in cases of \* \* \* Consumption, Asthma, Catarrh and Bronchitis," was false and fraudulent in that it was applied to said article knowingly and in a reckless and wanton disregard of its truth and falsity, so as to represent falsely and fraudulently to the purchasers thereof and create in the minds of the purchasers thereof the impression and belief that said article was in whole or in part composed of or contained ingredients or medicinal agents capable, among other things, of producing the therapeutic effect claimed for it on the labels on said bottles, when, in truth and in fact, it was not and did not.

On August 9 and 13, 1921, no claimant having appeared for the property, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be destroyed by the United States marshal.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

**10712. Adulteration and misbranding of egg noodles. U. S. v. 17 Cases of Tri-State Egg Noodles. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 15036. I. S. No. 10803-t. S. No. W-974.)**

On June 11, 1921, the United States attorney for the District of New Mexico, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 17 cases of Tri-State egg noodles, remaining unsold in the original packages at Deming, N. Mex., alleging that the article had been shipped by the Sharp Elliott Mfg. Co., El Paso, Tex., March 20, 1920, and transported from the State of Texas into the State of New Mexico, and charging adulteration and mis-

branding in violation of the Food and Drugs Act. The article was labeled in part: (Carton) "5 Ozs. Net Tri-State Brand Egg Noodles Manufactured by Sharp Elliott Mfg. Co., El Paso, Texas."

Adulteration of the article was alleged in the libel for the reason that plain noodles containing little or no egg had been substituted wholly or in part for egg noodles, which the said article purported to be.

Misbranding was alleged in substance for the reason that the labeling, to wit, "Egg Noodles," borne on the cases and cartons containing the article, was false and misleading in that the said article was not egg noodles but plain noodles, containing little or no egg. Misbranding was alleged for the further reason that the article was offered for sale under the distinctive name of an article other than that contained within the said cartons and cases.

On October 10, 1921, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

**10713. Misbranding of cucumbers. U. S. v. South Carolina Produce Assoc., a Corporation. Plea of guilty. Fine, \$10 and costs. (F. & D. No. 15483. I. S. No. 9290-t.)**

On March 22, 1922, the United States attorney for the Eastern District of South Carolina, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the South Carolina Produce Assoc., a corporation, Meggett, S. C., alleging shipment by said company, in violation of the Food and Drugs Act, as amended, on or about June 1, 1921, from the State of South Carolina into the State of New Jersey, of a number of baskets containing cucumbers which were misbranded.

Misbranding of the article was alleged in the information for the reason that it was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On June 8, 1922, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$10 and costs.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

**10714. Misbranding of cottonseed cake. U. S. v. Commonwealth Cotton Oil Co., a Corporation. Plea of guilty. Fine, \$50 and costs. (F. & D. No. 15456. I. S. No. 11656-t.)**

On January 13, 1922, the United States attorney for the Western District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Commonwealth Cotton Oil Co., a corporation, Cushing, Okla., alleging shipment by said company, in violation of the Food and Drugs Act, on or about December 5, 1920, from the State of Oklahoma into the State of Missouri, of a quantity of cottonseed cake which was misbranded. The article was labeled in part: "Gold Medal—43 Per cent. 100 lbs. Cottonseed Meal or Cake. \* \* \* Commonwealth Cotton Oil Co. Cushing, Oklahoma."

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that it contained 40.85 per cent of protein.

Misbranding of the article was alleged in the information for the reason that the statements, to wit, "Guaranteed Analysis: Crude Protein 43 per cent or better" and "Guaranteed Analysis Protein, Not Less Than 43%," borne on the tags attached to the sacks containing the article, regarding the article and the ingredients and substances contained therein, were false and misleading in that the said statements represented that the article contained not less than 43 per cent of protein, and for the further reason that it was labeled as afore-said so as to deceive and mislead the purchaser into the belief that it contained not less than 43 per cent of protein, whereas, in truth and in fact, the said article did contain less than 43 per cent of protein, to wit, approximately 40.85 per cent.

On April 10, 1922, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$50 and costs.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

**10715. Misbranding of Aspironal. U. S. v. 47½ Dozen Bottles of Aspironal. Tried to the court and a jury. Judgment ordering condemnation, forfeiture, and destruction of the product. (F. & D. Nos. 15683, 15684. S. No. E-3659.)**

On December 2, 1921, the United States attorney for the Eastern District of South Carolina, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the